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DAN C. VELA **VIA ECF & FAX**

\*ALSO ADMITTED IN NJ

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Hon. Cheryl L. Pollak  
United States District Court, EDNY  
225 Cadman Plaza East  
Brooklyn, New York 11201

**RE: Zimmerman, et al. v. Poly Prep, CDS, et al. - 09 Civ. 4586 (FB) (CLP):  
Plaintiffs' Proposed Revised Second Amended Complaint**

Dear Judge Pollak:

On October 27, 2011, Plaintiffs withdrew their claims against Defendants, Steven Andersen and Ralph Dupee, with prejudice. Said withdrawal should not be construed, in any way, to affect either Plaintiffs' pending motions before this Court, or Plaintiffs' pending claims against the other named Defendants.

To effectuate this withdrawal, which involves only the deletion (not the addition or modification) of certain allegations which were pled in the Second Amended Complaint, I propose to submit a Revised Second Amended Complaint which will delete all appropriate withdrawn allegations, and renumber this pleading's paragraphs. The Second Amended Complaint's exhibits will not change in any way. This Revised Second Amended Complaint has been served upon counsel for all Defendants.

Judge Block has directed me to direct this request to Your Honor's attention. With the Court's consent, I will promptly file the Revised Second Amended Complaint "Under Seal" with the Court. By Order of the Court, the Second Amended Complaint has not yet been filed electronically via ECF. This approach will not materially impact the Poly Prep Defendants' pending motion to dismiss, as Defendants' counsel, Jeffrey I. Kohn, Esq., has indicated to me that he will reformat Defendants' motion papers (not yet filed, pursuant to the Court's motion bundling rule) to reflect the appropriate renumbered paragraphs.

If this procedure is acceptable to the Court, kindly endorse this letter. As Plaintiffs' opposition papers to Defendants' motion to dismiss are due on November 23, 2011, the Court's prompt attention to this request will be most appreciated. Thank you.

Sincerely,  
  
KEVIN THOMAS MULHEARN (KM2301)

cc: Hon. Frederic Block  
Jeffrey I. Kohn, Esq.  
Harry Petchesky, Esq.

Concepcion A. Montoya, Esq.  
David G. Trachtenberg, Esq.